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ABSTRACT

Ideas are presented for the revision of San Francisco's cable franchise. The recommendations in the report are based upon national research of library and urban use of cable communications and are designed to help the city's present and future cable franchises to comply with the regulations of the Federal Communications Commission by March 31, 1977. Part I contains a checklist of franchise revision factors, including matters such as: length of franchise, construction, access channels, cable regulatory agency, franchise fees, rates for service, the continuance and discontinuance of service, technical standards, employment requirements and consumer complaints. Part II presents a San Francisco Cable Communications Master Plan which covers: community involvement, construction considerations and recommendations, video production centers, leased access and public access councils. (PB)

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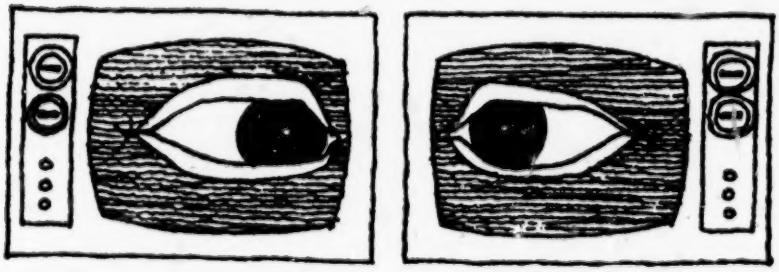
San Francisco Public Library Cable Franchise Study Committee



WORKING PAPER FOR THE REVISION OF SAN FRANCISCO'S CABLE FRANCHISE

September 1, 1973

EM 011 638

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INTRODUCTION

At the request of the Chief Administrative Office, the Cable Franchise Study Committee of the San Francisco Public Library Video Task Force herein presents ideas for the revision of San Francisco's cable franchise(s). These recommendations are based upon months of national research on library and urban use of cable communications. This paper is not meant to be a thorough investigation of all areas of cable franchising. We have tried to outline areas for further consideration while presenting suggestions that would have a significant effect upon public service communications development. Additionally, the committee has made recommendations consistent with the goals of the Library, as established in its VIDEO CENTER POLICY STATEMENT, adopted by the Library Commission on February 6, 1973.

BACKGROUND

Although two non-exclusive franchises were awarded by the City, one to Television Signal Corporation in 1964 (Ordinance 105-64) and another to Western Television Cable Company in 1966 (Ordinance 190-66), only the former franchisee has constructed an operational cable system in San Francisco. With the repeal of Western's franchise ordinance, the City will have only one operable cable system which will own, in effect, a de facto exclusive franchise.

NEED FOR FRANCHISE REVISION

Since the presently operating franchise holder had begun construction prior to March 31, 1972, it has been grandfathered by the Federal Communications Commission until March 31, 1977. This means that both the City and the franchise operator have been exempted from the cable regulations stated in the F.C.C.'s Third Report and Order of February 12, 1972, and its Reconsideration of the Third Report and Order of July 14, 1972, and have been given a grace period of five years to plan for the implementation of these regulations. Although a cable operator need not comply with these F.C.C. regulations prior to March 31, 1977, there is an obvious and immediate need for in-depth planning to adapt the present system to the standards established by the F.C.C. If the cable system is to adequately serve the communication needs of San Francisco in 1977, many provisions of the present, outmoded franchise must be revised. Part I, Checklist of Franchise Revision Factors, presents areas for further consideration and gives guidelines for the extensive revision of the current franchise.

NEED FOR NEW FRANCHISE AGREEMENT

If the rights granted by the now-defunct Ordinance 190-66 are to be transferred or re-sold to another cable system operator, be it municipal, private, or subscriber-owned, we recommend a new cable franchise be negotiated that would define the design and development of cable communication in San Francisco. In fact, we would strongly recommend

that until a design outlining the development of compatible cable systems is adopted, the City be extremely cautious in awarding any new franchise agreements.

There is an obvious need for city-wide planning for the development of San Francisco's cable communication system. We would also recommend that, more than a study, a SAN FRANCISCO CABLE COMMUNICATIONS MASTER PLAN be adopted that would govern any future franchising contracts and cable developments in San Francisco.

For these reasons, in addition to Part I (Checklist of Franchise Revision Factors), we submit Part II, a checklist of areas to be incorporated into a SAN FRANCISCO CABLE COMMUNICATIONS MASTER PLAN, to be used as a base for any new or renewed franchise negotiations.

PART I

CHECKLIST OF FRANCHISE REVISION FACTORS

An immediate consideration of needed franchise revisions is highly desirable. It will be beneficial to all parties involved to have the City define areas of responsibility, outline goals for achievement, and decide procedures for cable regulation. Only after the City makes proper considerations and final decisions in these prerequisite areas can independent video groups, community and educational organizations, city agencies, and the cable franchisee work efficiently to meet the desired goals of cable communications in San Francisco by 1977.

A. LENGTH OF FRANCHISE

The F.C.C. states: "We believe that in most cases a franchise should not exceed 15 years and that renewal periods should be of reasonable duration." Furthermore, in its Reconsideration Order of July 14, 1972, the F.C.C. states: "Because our requirement of 'reasonable duration' seems to have confused some parties, we have decided that our rules should more directly reflect the statements made in the report and have therefore now set 15 years as the standard to be followed."

The F.C.C. regulations on maximum length of franchise which will be mandatory as of March 31, 1977, will set for the present franchise, awarded in 1964, the 15th year termination date of April 13, 1979. At the termination date of the ordinance, the City can review the cable operator's performance under the F.C.C. minimum standards and could then offer a new franchise designed in accordance with the San Francisco Cable Communications Master Plan (q.v.).

Therefore, the cable franchise holder who in 1972 was given five years to comply with F.C.C. regulations contained in the F.C.C. Third Report and Order of February 12, 1972, and its Reconsideration of July 14, 1972, will have been operating for at least two years under these regulations prior to re-evaluation for a new franchise contract that could outline additional responsibilities.

B. CONSTRUCTION

According to the present franchise (section 5, paragraph "A"): "The City reserves the right of reasonable regulation of the erection, construction and maintenance of any works and construction of the grantee and to reasonably designate where such works and construction are to be placed."

1. Construction Timetable

The F.C.C. states, furthermore, that the cable operator shall "equitably and reasonably extend energized trunk cable to a substantial percentage of its franchise area each year, such percentage to be determined by the franchising authority." [F.C.C. Third Report and Order, Paragraph 76.30 (a) (2).] The F.C.C. further states, "As a general proposition, we believe that an energized trunk cable should be extended to at least 20 per cent of the franchise area per year." (Third Report, page 3276, Paragraph 181.)

Hence, we would recommend that the revised franchise outline the intended extension of an energized trunk cable to all parts of the city not presently wired. With 33% of the city already wired, it does not appear unreasonable to request completion of this "systematic" wiring prior to the termination of the franchise, April 13, 1979.

Note: An exemption for this systematic wiring of the city and its neighborhoods may be made if the system design would reflect a high level of sophistication that would make it economically unreasonable to advance at such a rapid rate.

Also, to fulfill the non-discriminatory provisions of the F.C.C. Regulations, it is recommended that priority of construction be specified for those areas which have large minority populations.

2. Public Service Construction

Municipal, educational and community nonprofit agencies which provide public services should be provided free cable "drop lines" upon request.

3. State-of-the Art Provision

The operating cable system is presently being constructed with a "shadow" cable that may eventually be used for the two-way capability. This type of construction satisfies the latest F.C.C. regulations, but does not necessarily provide for a continual increase in sophistication and betterment of the system and its design.

Therefore, we would strongly recommend a "State-of-the Art" clause be incorporated into a revised franchise contract requiring San Francisco's system to remain current with the technological developments of the industry.

C. ACCESS CHANNELS

Although grandfathered until 1977, the present cable operator is mandated to provide an access channel for every new, added broadcast signal [F.C.C. Paragraph 76.251(c)]. In its Reconsideration Report, the F.C.C. mandates that these access channels be established in the following order: Public Access, Educational Access, Local Government Access, and Lease Access. Hence, the City must quickly approve policy governing the use and control of these channels.

1. Common Carrier Status

The F.C.C. mandates that cable operators must not censor or exercise program content control of any kind over the material presented on the access channels. Hence, the City Franchise may designate all access channels as "common carrier," liability for all production being the responsibility of the program producer rather than the cable operator. As we believe no "free" channels can be allowed under common carrier status, further investigation should be made before including this provision in the revised franchise.

2. Local Government Access

a. "Each system shall maintain at least one specially designated channel for local government use." (F.C.C. Paragraph 76.251, #6.)

b. A revision of the franchise, Section 5, Paragraph B, is necessary to insure that San Francisco be given the opportunity to use the "free local government access channel" at least during a five-year developmental period, as is presently assigned to non-grandfathered systems by the F.C.C.

Hence, in addition to the emergency services which shall be made available without charge (Ord. 106-64, Section 5, Paragraph B), the franchise should specify that "at least one cable channel shall be made available without charge for the use of any City official or local government agency wishing to perform public service programming."

c. Furthermore, to adequately program the local government channel, there is a need for video equipment and technical expertise. Well-versed in the use of educational technology and expert in extending information to the general public, the Library, the City's central information center, is the natural agency to serve all other city agencies. Hence, we recommend the establishment and staffing of a municipal production center at the Main Library (Section II-D-2), funding to be provided from cable franchise fees and other municipal funds.

d. A "fairness doctrine," or equal time for political candidates, should be included in the regulation of the "local government access channel." This requirement was inadvertently dropped from the F.C.C. Regulations. (Statement by Sol Schildhause, Chief of F.C.C. Cable Television Bureau, University of California, Berkeley, "Programming for Cable Television Workshop," May 5, 1973.)

3. Educational Access

Like the Local Government Access Channel, the free use of the Educational Access Channel is restricted to a five-year developmental period.

a. The revised franchise should provide that the free access developmental period shall begin with the establishment of this channel by the San Francisco Cable Franchisee.

b. The franchise must also state that this channel shall be established no later than March 31, 1977.

4. Public Access

In addition to the live studio production facilities to be made available at the franchisee's expense, as provided by the current F.C.C. regulations [F.C.C. 76.251(a), (10), (ii)], the F.C.C. states: "We are requiring that cable operators maintain within the franchise area production facilities for use on the public access channel." (F.C.C. Regulations, February 12, 1972, Page 3272, Paragraph 142.)

a. We would recommend that the franchise be revised to include provision of a mobile studio that would provide production facilities at "reasonable rates" to the public.

b. Procedures for the operation of the public access channels which should be approved by the City prior to their inception include:

(1) Publicizing and scheduling public access programs.

(2) Production schedules.

(3) Rates for equipment usage.

5. Leased Access

In addition to the F.C.C. requirements of "first-come, non-discriminatory access" and priority for part-time users, the City should also require of the leased channel operator:

a. All procedures and rates with respect to the lease access channels shall be reviewed by a Cable Regulatory Agency and established with the approval of the San Francisco Board of Supervisors.

b. Use of the leased access channels shall be reviewed on an annual basis, at which time, if channel scarcity exists, other demands upon the lease access time could be given consideration.

D. CABLE REGULATORY AGENCY

The F.C.C. urges cities to establish a central agency for the regulation of cable communications. Since 2% of the current franchise fee (see FRANCHISE FEES, Section I-E) must be used for this purpose in 1977, the Library recommends:

A full-time position be established to direct a Cable Regulatory Agency for San Francisco.

1. Areas of Jurisdiction:

a. Recommend solutions to problems between franchisees, subscribers, and public and private users of the cable system(s).

b. Evaluate the use of the cable system and make recommendations for improved services.

c. Watchdog the operation of the cable system and levy fines when noncompliance with the City franchise is in evidence; also, secure evidence which might constitute grounds for revocation of the franchise.

d. Encourage the use of access channels.

e. Review all cable services, and extension or revision of these services.

f. Review procedures, rates and criteria of usage of all interactive cable services prior to operation.

g. Make an annual report to the Supervisors, including income, services, and programming, and development of cable services.

h. Coordinate and advise Public Access Councils (II-F).

i. Make recommendations on an annual basis for the revision of the Master Plan and areas for further study and action in the development of San Francisco's cable communications.

2. Composition of Agency:

To revlect the diversity of the cable communication system, the C.R.A. should be composed of representatives of the major uses of the cable system.

Membership should include:

a. A staff member of the Chief Administrator's Office.

b. A staff member of the City Attorney's Office.

c. A staff member of the Department of Electricity to enforce technical standards.

d. Representatives of the municipal and educational access interests.

e. Representatives of various neighborhood video groups and representatives from neighborhoods where video groups do not yet exist.

E. FRANCHISE FEES

According to the F.C.C. Regulations: "If franchise fees exceed 3% of such revenues [gross subscriber fees], the cable television system will not receive certification unless it is appropriate in light of planned local regulatory purposes." Therefore, the San Francisco 5% franchise tax fee is in violation of the F.C.C. Regulations, since it is not used for any regulatory functions but rather is diverted to the City's "General Fund."

1. Basic Subscriber Fees

Since the City is mandated to divert some of its franchise fees from the General Fund with the award of the franchisee's certificate of compliance in 1977, it should consider the following reassignment of the franc ise fee revenues:

a. A percentage of the franchise fees to the regulatory agencies of the City. These monies may be held in escrow until the establishment of the agencies or given to officially designated "cable study committees."

b. A percentage of the franchise fees to a MUNICIPAL CABLE ACCESS CENTER AT THE PUBLIC LIBRARY, these funds to be used solely for the video production of community programming by City officials and municipal agencies.

c. A percentage of the franchise fees to be assigned to other areas of community access programming or cable regulation.

2. Additional Cable Services

Other franchise fees should be considered with the assumption of additional revenues:

a. Five per cent of gross annual subscriber revenues for Class I (broadcast) and Class II (access channels and local origination) cable services (currently assessed).

b. Five per cent of gross annual subscriber revenues of Class III (pay TV) and Class IV (interactive communications) cable services.

Note: Presently the F.C.C. forbids municipalities to levy fees upon any revenues other than those provided by subscriber services. However, they will reconsider this position when these other revenues become significant, and the City government must be constantly aware of the proceeds from these other areas.

F. RATES FOR SERVICE

The increase in cable revenues from pay television and other sophisticated cable services should be taken into consideration in the revision of subscriber rates for basic cable television services.

1. Subscriber rates should be evaluated annually by the C.R.A. in relationship to the gross revenues of the cable operator. In addition to the revenues obtained from Class I, II, III and IV services outlined above, advertising revenues, lease channel receipts, and revenues from equipment rental should also be reported to the C.R.A.

2. All rates for subscriber services may be reviewed upon petition of a cable television user, subscriber or operator.

3. Special rates for cable services should be offered the elderly and less mobile, handicapped citizens of the city.

Note: The Library has not requested reduced rates for the poor or for nonprofit community organizations, nor has it asked that preference be given minority groups on the lease access channels since these provisions have been questioned as being in violation of the "first-come, first-served on a non-discriminatory basis" clause of the F.C.C. Regulations. We feel, however, that once this question has been resolved legally, San Francisco should be empowered to request these special rates and services of the cable operator.

G. CONTINUANCE/DISCONTINUANCE OF SERVICE

The F.C.C. notes that "the problem arises in cases where the operator holds the potential threat of stopping service if he does not get a franchise renewal and refuses to sell or lease the existing plant to the new franchise holder, be it another private party or city." Although there is no F.C.C. regulation which currently covers this problem, the F.C.C. does "strongly recommend that local officials include specific 'buy-back' or continuation of service provisions in their franchises." (F.C.C. Reconsideration, page 13862, #113).

With the City's recent experience of the forfeiture of the Western Franchise, the need for determining procedures for renegotiating a franchise is evident.

Hence we recommend:

1. The franchise clearly state grounds for the termination of the franchise.

2. Methods and standards for evaluation of the current operator's performance be established.

3. A "buy-back" provision be included in the revised franchise.

4. No system be allowed to operate in San Francisco after March 31, 1977, without having an F.C.C.-approved Certificate of Compliance.

5. A provision for the City's right of first refusal, if the cable operator decides to sell or transfer its franchise, should be included in the franchise.

6. A schedule of penalty fees should be adopted.

H. TECHNICAL STANDARDS

While the F.C.C. has set requirements with regard to channel capacity, television signal carriage and some non-broadcast channel uses, there are only minimal requirements for technical performance in the F.C.C. rules for television broadcast signals and none for non-broadcast signals delivered to the subscriber. The City should provide in the ordinance specific performance standards for these signals.

Note:

1. An analysis of standards and procedures for enforcement should include special attention to the Cable Television Information Center publication Technical Standards and Specifications: Ordinance Supplement Section VII, July 1973.

2. Time-base correction equipment should be included as one of the technical standards of the cable operation to ensure quality presentation of community produced videotape.

I. EMPLOYMENT REQUIREMENTS

The cable operator is required by F.C.C. rules (Section 76.311) to establish an affirmative plan to employ minorities and women. The cable system operator must, at the time of certification, file the system's equal employment opportunity program pursuant to F.C.C. rule, Section 76.13 (a) (8).

J. CONSUMER COMPLAINTS

The F.C.C.'s rules require that franchises provide for the investigation and resolution of local service complaints and that the franchisee maintain a local business office or agent for these purposes. All franchisee holders should delineate the procedures and personnel which will be available for handling consumer matters. In addition, the franchising authority should consider a reporting system to keep itself informed about the system. (Some ordinances also require that operators keep records of complaints and make them available to the franchising authority upon request.)

PART II
SAN FRANCISCO CABLE COMMUNICATIONS MASTER PLAN

There are many factors of San Francisco's cable development that cannot be handled by revising the present franchise contract between the City and the cable operator. Since the development of all cable services is dependent upon the pattern and type of cable communication, and conversely, the cable's corporate decision cannot be other than limited unless there is sufficient information on the communication needs of the various San Francisco communities, we would recommend an immediate study leading to the adoption of a Cable Communications Master Plan for San Francisco. By ascertaining the social, business and informational needs of San Francisco, a Master Plan could be adopted that would help guide future franchising and the development of cable communications. The following are some areas that have been given consideration by the Library, with recommendations and standards for future franchise contracts and associated cable activities.

A. COMMUNITY INVOLVEMENT

The community must not only become informed about the technologies of cable communications, but must also be intimately involved in the planning of cable and the franchising process.

An ascertainment study of the community should be conducted to determine the programming and communication needs of the various sectors of San Francisco.

Public hearings and public review of the Master Plan should be held.

B. CONSTRUCTION CONSIDERATIONS

The present system is extending through the city in the traditional "tree" or party-line cable network. As a result, there is a developing inflexibility for sophisticated cable communication services such as point-to-point networking, subdistricting, and computer-data transmission. Immediate consideration must be made of these special communication needs and how they can be adapted to the existing system.

1. Point-to-Point Networking

The Mitre Corporation Report, Urban Cable Systems, speaks of the practical construction of point-to-point networking. Oakland, California, is presently constructing a system that will link all of the city's schools directly with the school

system's television studio. Other ideas have been to link schools, libraries and museums in a coordinated information system, link police stations with the courts, link banks with their branches, and link hospitals with other medical institutions.

2. Subdistricting

With careful planning, areas of the city can be provided cable programming separate from general programming received by the rest of the city. The provision of district programming becomes especially significant with the eventual use of two-way communication so that political polling can be done over cable (sub-districting by political area) and specific neighborhood programming delivered (sub-districting by zip code?).

3. Computer Data Transmission

Consideration should also be made of the possibilities of data transmission and the use of television as CRT terminals. Banking without paper, creating access to existing computer data banks, and instituting simple digital response systems must be investigated in relation to the existing cable system.

C. CONSTRUCTION RECOMMENDATIONS

1. Compatible Systems

a. If more than one franchise is to operate in San Francisco, geographically distinct areas of the city should be defined for each.

b. All cable operators in San Francisco should maintain mutually compatible systems with possible interfacing for simultaneous city-wide cablecasting. In this manner, programs of city-wide interest can be cablecast simultaneously to the entire city and specialized information services of one system could be interfaced into the other.

c. Plans should be made to establish technical standards that would allow the interfacing of the San Francisco cable system(s) with other Northern California cable systems.

2. Building Codes

a. Plans should be made to extend the cable underground in coordination with other excavations of San Francisco streets.

b. Building Codes could be adapted to mandate the placing of cable condiut in all new construction of multiple dwelling units.

3. Community Origination (Program Origination Centers)

To encourage access to cable and allow for maximum flexibility in programming and scheduling, plans should be made for the direct distribution of community programming through the cable. Either through wiring or microwave, connection between community access studios and the dedicated access channel may be made directly. The Library staff recommends that at least three points of community access to the cable system be established; each to be located apart from the cable operator's local origination studio and linked for direct cablecasting to the City's subscribers:

One for Local Government Channel Programming	Main Library Building, Civic Center
One for Public Access Programming	(A Neighborhood Performing Arts Center?)
One for Educational Use	(California State University, San Francisco?)

D. VIDEO PRODUCTION CENTERS (Community Access Centers)

The development of cable television as an efficient and effective communication device for all citizens of San Francisco will greatly depend upon the availability of equipment and staff for video production and the knowledge of all San Franciscans in the use and effectiveness of video and cable. Hence we present the following ideas for consideration in the development of community access programming.

1. Public Access

Since the franchisee must provide public access facilities within the franchise area (F.C.C., Feb. 12, 1972, page 3272, paragraph #142), and because the ethnic quality of San Francisco is extremely varied, yet geographically clustered, the Library would recommend the eventual establishment of several public access centers that could adequately serve the diverse production needs of its various neighborhoods. Operating similarly to Teleprompter's New York Access Center and LVO's Bakersfield Alternate Media Center, these production facilities would provide technical staff as well as portable and editing equipment to be made available to the public.

a. Area Consideration:

Considerations must be made as to which areas and how many production facilities would provide maximum potential for production while avoiding undue hardship upon the cable operator.

Our original conception was to establish production facilities within those areas outlined by the Neighborhood Arts Program:

Area 1 - Bayview-Hunters Point
Area 2 - Western Addition
Area 3 - North Beach-Chinatown
Area 4 - Oceanview-Merced-Ingleside
Area 5 - Mission
Area 6 - Richmond-Marina-Sunset

However, other alternatives are possible, and a closer correlation between Production Facilities and Sub-Districting may be considered.

b. Operator Convenience:

To avoid undue hardship to the franchise holder, these public access centers should be established only with the significant penetration of the cable into each designated "access production area." We believe 30% wiring of a specific district could be considered "significant."

Until the establishment of permanent studios in each neighborhood, we recommend the consideration of a color-capable 1/2" video mobile van, to be used immediately to begin production in those areas already wired.

Mobile unit(s) and permanent community access centers should be staffed with technicians able to communicate with the major ethnic constituency of the neighborhoods served by the centers.

Consideration should be given to the possible use of library branches, community art centers and other existing community agencies to act as the physical plants for these public access centers.

2. Municipal Access

Although the City has no authority in the operation of the public access channel, the City has complete control of the operation of the local government channel. There is obviously a need for a City agency to educate City officials and other City agencies to the use of video and cable communications. Additionally, there will be a need for some central coordination of cable programming and video distribution. Because of the Library's interest in information exchange and the distribution of information services to all of San Francisco, we make the following recommendation:

A MUNICIPAL CABLE ACCESS CENTER BE ESTABLISHED, WITH ADEQUATE FUNDING AND STAFF, AS A DEPARTMENT OF THE SAN FRANCISCO PUBLIC LIBRARY.

In addition to those duties outlined in the "San Francisco Public Library Video Center Policy Statement," adopted by the Library Commission on February 6, 1973, the access center would perform the following services:

a. Coordinate and disseminate the video and cable programming produced by City agencies.

b. Act as a City representative on cable programming committees.

c. Hold training workshops for City officials and City employees on the use of video and the use of cable communications.

d. Act as a depository for all significant City-agency produced video programs.

e. Provide technical staff and equipment for use by San Francisco officials and municipal agencies not owning video equipment.

f. Provide video reference service in support of municipal video productions.

g. Investigate the use of information retrieval computer systems and cable technology.

As cable communication use increases and various city agencies develop an expertise and need for the use of video and cable technologies, the City should allow the inclusion of video equipment as line items in the various agency budgets where appropriate.

3. Educational Access

The establishment of an educational video consortium, including representatives of all intended users of the "Educational Access Channel," should be encouraged.

In addition to working out the complexities of access programming and coordination, this consortium might analyze the possibilities for point-to-point networking which would allow maximum flexibility and best coordination of educational institutions.

4. Alternate Video Centers

The Library Committee would like to see the establishment of many independent, special-interest community video groups. The City should consider providing financial aid to independent video cooperatives.

E. LEASED ACCESS

Any new franchise contract should consider the following:

If the F.C.C. eliminates the provision of a "free" educational, municipal and public access channel after the five-year developmental period, the City should include a special provision in the lease access section of the franchise to give first priority use of the lease channels to those currently using the free access channels.

F. PUBLIC ACCESS COUNCILS

The success of cable communications in San Francisco will rely not only adequate regulation of the development of the cable system, but also the support and encouragement of access cable programming. Since neither the cable operator nor the franchising authority is allowed to exercise any control over public access programming, it might be wise to foster neighborhood councils to encourage and advise the public use of cable and guide the operation of public access studios and any public origination centers.

1. Areas of Responsibility

a. Encourage video programming by all members of the community.

b. Resolve problems and complaints on a local level where possible.

c. Act as community liaison for the Cable Regulatory Agency, neighborhood cable subscribers, and access center users.

d. Prepare recommendations for cable development to be submitted to Cable Regulatory Agency.

2. Composition of Public Access Council(s)

Membership of the councils should be flexible in numbers; however, in every case, the council should represent the ethnic and socio-economic pattern of the individual neighborhood. Among those to be represented on each council shall be cable subscribers and video center users, both private and public. In no case shall an employee of the franchisee be allowed membership upon any Council.

G. MASTER PLAN * NEW FRANCHISE * FINES

The relationship between a finally adopted Master Plan and any franchise contracts based upon this Plan must be worked out legally. We have envisioned a close correlation between the

Master Plan and future franchise ordinances. Although the franchise can be awarded at only fifteen-year intervals, the Master Plan should be reviewed and supplemented annually by the Cable Regulatory Agency.

Compliance with the Master Plan should be a basic tenet of every new franchise contract made with the City. Hence, a fine schedule for noncompliance should be drafted.

Arrangements should be made that continued reprimand or fine levy upon any franchisee may constitute grounds for revocation of the franchise ordinance.

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ableTelevision
Information Center

October 9, 1973

Mr. Roberto Esteves
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San Francisco Public Library
Civic Center
San Francisco, California

Dear Roberto:

I have now completed my review of your "working paper for the revision of San Francisco's Cable Franchise" and find it generally to be an excellent document that should be very helpful to the city's new task force as they organize to consider the many issues you have outlined.

My comments that follow are for the most part relatively minor but hopefully will clarify what may be differing interpretations of the FCC rules.

Page 1 - Dates you have used in paragraph three refer to the publication dates of the Report and Order and Reconsideration Report. The date of adoption of the Report and Order was February 2, 1972 and the Reconsideration Report was adopted on June 16, 1972.

Page 1 - Paragraph 3 "Although a cable operator need not comply with these FCC regulations prior to March 31, 1977 there is.....
(NOTE: This is generally true, however if television signals are added prior to the date the operator has to seek a certificate of compliance which automatically requires him to present evidence of a franchise that contains the FCC requirements relating to franchise standards (76.31), see also 76.251(c)).

Page 1 - Paragraph 4 - If the Ordinance 190-66 is "now defunct," what rights remain to be transferred? If system was never built, any new operator or even the original operator would have to conform to new FCC rules as they would not qualify to be grandfathered.

Page 3-Paragraph 3 - Since the operator is required to be inconformity with the franchise standards by March 31, 1977, he will be required to request a new franchise from the city prior to that time that includes at least the FCC requirements (76.31). The operator will need to present this revised and updated franchise in order to obtain the required certificate of conformance.

Page 4-Paragraph 4 - The FCC makes no requirements in its non-discriminatory provisions that would relate to establishing priorities for construction. I see no reason, however, why the city could not impose such requirements in its negotiation with the cable operator.

Page 4 Number 2 - This is generally a good objective, however, you might want to examine the cost implications of this so that you can compare with other things you might decide had greater priority. There is of course, some upper limit to what an operator can give away. What I am trying to suggest is that "nothing is really free". What you gain here with "free drops" may wind up in higher subscriber costs.

Page 4 Number 3 - The idea of including a "State of the Art clause" is good, however, as used in many ordinances it is unenforceable, because provisions cannot predict the future implication of technical development nor can you predetermine an individual operator's ability and/or capacity to make the change. The important thing to do is to develop a procedure that causes a periodic review in which consideration can be given to such changes. We can be of help to you as you consider this.

Page 5 Number 1 - I believe you are beginning to get into trouble with your interpretation of Common Carrier Status. Regardless of how the city might want to absolve an operator from liability for programming, the FCC by its own rules state that an operator can be liable for lotterys, obsentities etc. Since the FCC has not yet defined obsenity, operators are understandibly concerned because anyone can bring a suit for alleged violation of this.

If I were you, I would stay out of this subject area for a little while longer. Perhaps with the current rule making activity some of these matters will become clarified.

Page 6 Number 3 - Educational access

The FCC rules on this are fairly clear for systems that are being created. The five year period relates to "five years after completion of the systems basic trunk line..... (76.251 a(10)). The existing rules do not clearly support the conclusions you have reached in this section of your report. We have recommended that FCC clarify this question during their current review of their rules.

Page 6 Number 4 - Public Access

You are correct in your advice that the city should attempt to have an impact on the operating procedures of the public access channels. It is important to bear in mind that this should be part of the negotiations with the operator realizing, however, that the operator is given the authority for developing and adopting his own operating rules for public access, educational access and leased channels. No mention is made of the municipality having jurisdiction for approving or disapproving these rules. (76.251 (11)(IV). In fact this section states "no local entity shall prescribe any other rules concerning the number of manner of operation of access channels....."

Page 7 Number 5, a and b

We are of the opinion that the present rules do not give local governments a legal basis for review or approval of procedures and rates pertaining to leased access channels. Specific authority for local governments that pertain to rates affect only "rates which the franchisee charges subscribers for installation of equipment and regular subscriber services" (76.251 (a)(4)). See also paragraph 82 of Reconsideration Report and 76.251 (II)(IV) for further language that is restrictive of local government regulation of leased channels.

Again, here is an area that to have an impact, you may want to include in your overall negotiations with the operator. You certainly have a right to learn what his operating procedures may include. If you establish periodic review periods where you examine the operator's performance you may be able to have considerable indirect affect on the way he operates his system.

Page 7 and 8-D. Cable Regulatory Agency and E Franchise Fees.

I feel you may have misconstrued the FCC's current attitudes regarding the allowable franchise fee.

The city's current 5% franchise fee is not necessarily in violation of FCC regulations.

First of all, until the certificate of compliance is made in 1977 the present arrangement is legal. Even in 1977, or earlier, whenever a revised franchise is prepared, the city is obliged only to describe a specific regulatory process to justify the 5% fee over the 3%. Typically over the country all franchise fees go to the general fund. The regulatory activity might become a function of an existing department such as the Chief Administrator's Office or perhaps a newly created Department of Telecommunications. Many of your proposed regulatory activities sound excellent but I think you will find that the city is <u>not</u> "mandated to divert some of its franchise fees from the General Fund....." The processes you suggest are likely to become policy positions and operating procedures of the city if you are able to convince the Board of Supervisors of their merit. As a tactical consideration you might be advised not to limit your possible expenditure levels to percentages of franchise fees. You are likely to find that the regulatory procedures and certainly the costs of video production may require a great deal more financial support than can be achieved from the franchise fees.

Page 9 F - Rates for Service

2. Your proposed sentence here could lead to extreme difficulties and harassment. You might consider certain percentage levels rather than leave the city and the operator continuously subjected to initiating a rate review procedure merely on the petition of a <u>single</u> cable television user, subscriber or operator. Rate making procedures may develop to be complex, time consuming and expensive. Another approach would be to establish certain regular review periods (every 3 or 5 years)

SAN FRANCISCO PUBLIC LIBRARY

VIDEO CENTER POLICY STATEMENT

February 6, 1973

The fledgling technology of videotape has already proved itself to be the most flexible of audio-visual media. San Francisco Public Library believes that with its companion technology of cable television, videotape will become a significant library resource, indeed, perhaps even an essential tool to redefine public library services as they now exist. The following is an affirmation of this belief and a commitment for San Francisco Public Library's involvement with these new technologies:

Centered in an educational video landscape second only to that of New York City, the San Francisco Public Library is in the unique position of being the first urban library able to explore the library potentials of videotape without being restricted by an established A-V department. The library proposes to establish a model urban video "library", the first in the nation, to experiment with the collection, production and dissemination of video as an integral library service involving reference programming for the visually oriented, community outreach for the unserved, and in-service training for staff development. Special attention will be given to determining how video can be a unique and effective library resource and how cable-casting library programs to television patrons can provide unique library services. Special problems encountered and new techniques of information exchange will be explored and the knowledge from this experience will be shared with the library profession through the literature and eventually, consultancy.

PHYSICAL GOALS

A video center will be established in the Main Library building. Eventually, this center will house the entire videotape collection, serve as office and workroom for the video staff, act as a video viewing center with closed-circuit monitors and as a studio for videotape production. It is hoped the closed circuit system can be extended to each Main Library department or on-line programming directed from the videocenter (for example, the Art department will have TV sets that will receive library video programs upon patron demand). Mobile units must be established to create outreach programming and to educate the public in the use of video. Additionally, if feasible, direct, live telecasting from the Commission Room (third floor) to the Exhibit Room (first floor) and vice versa should be incorporated. Provisions for audience viewing of video programming should be made possible in both rooms.

At a later date, a fully equipped cablecasting studio should allow library and perhaps community programming to be sent directly over the wires to San Francisco's Cable TV subscribers. In the meantime, the Library should try to acquire access to the cable as soon as possible for experimental library programming with the eventual goal of obtaining a twenty-four hour library-educational cable channel.

The Library will also arrange to have drop lines (Cable TV connections) at each branch as the cable extends through the City. Thus wired, a branch or selected number of branches can be immediately designated "cable viewing centers" and equipped with monitors and video recorders for Cable TV reception and video-branch programming. Similarly, with the two-way channel capabilities inherent in the San Francisco cable system, plans should be made to eventually originate (produce) neighborhood programming directly from the various branch libraries.

COLLECTION OF MATERIALS

Selection of video tapes will reflect the standards used for other media in SFPL until growing expertise generates new knowledge and experience that may lead to the formation of a new policy.

The collection will be made immediately available for internal programming and reference use, but will not be copied unless specifically allowed by the videotape producer. However, since the material selected will be used for eventual circulation to the public and cablecasting, arrangements should be made with video producers to allow free use of all videotape for these purposes. Future as well as immediate use should be considered when selecting all videotape. Consideration should also be given to the development of video cassette technology as soon as this medium becomes standardized with a view to incorporating video cassettes into the library's program.

Suggestions for collection:

... Tapes for reference and programming.

... Education tapes on library services for the public.

... Tapes useful for education of staff.

... Creative works particularly by Bay Area video people.

... General interest and entertainment tapes for circulation to public.

... Tapes of public interest relevant to San Francisco.

... Community (SF) produced tapes.

LIBRARY PRODUCTION OF VIDEOTAPES

One outstanding advantage of videotape is its ability to be produced easily, inexpensively, without great engineering expertise. Therefore, the video staff will begin at once to produce videotapes to supplement the video collection. Though it is hoped an experimental and creative approach will lead to many original uses of videotape, two major emphases will be important to the library's productions from the beginning:

First, tapes that will explain and promote the library and its services. They may include: tours of collections, explanation of services and library resources, advertising of library events, library programs for children and adults, political education of public to library's problems. In addition, tapes that further staff education will be produced. These might include educational workshops; tapes of library experts; explanation of technical processes, etc.

Second, tapes that will explore conditions outside the Library. Some suggestions follow, but many more will probably be considered: community activities; S.F. life styles; author interviews; oral history; survival resources, etc.

As video and cable are very young and developing technologies, the Library's Video Center staff must remain flexible in experimenting with videotape production. The center must not duplicate the efforts of other independent, educational, private and municipal video producers, but must feel free to experiment and produce any other programming it deems necessary.

STAFF INVOLVEMENT

It is essential for the library staff to be made aware of the potential uses of videotape. Since videotape can be used flexibly, the staff input from various departments and branches concerning their programming needs and ideas is vital to a truly effective video project.

An immediate goal, therefore, is a training workshop for all interested staff in the techniques of video recording and tape production. An ongoing program of meetings, workshops, and official notices will be necessary to keep the staff informed of the video project's development.

Additionally, the project staff must discuss program possibilities with other staff members and try to involve them in productions.

COMMUNITY INVOLVEMENT

As a model of progressive library practice, the video center should establish itself as a clearinghouse of information for the community and as a coordinator of municipal cable activities:

Municipal access - Since the F.C.C. regulations have mandated the establishment of a "local government access channel" and, therefore, the establishment of a municipal production center, the library should pursue active involvement in this new city program. Well-versed in the use of educational media and expert in extending education to the public, the Library is the natural agency to act as an umbrella for other agencies' video programming.

Educational access - Cooperation with other educational agencies planning to use the proposed "educational access channel" is necessary. During the developmental period, experimental cooperation in the use of hardware and software should be negotiated.

Community access - It is a pressing responsibility of the library to inform the public to its rights of cable access. In addition to workshops and book materials, the video center should demonstrate the potentials of videotape to the public. The Library should also cooperate with the establishment of public access facilities throughout the city of San Francisco. Additionally, community sponsored tapes should be collected and made available to the public through the library.

LIBRARY-VIDEO TECHNIQUES

Experimentation must be the rule. In addition to devising demonstration productions of many different types, the video staff must experiment with available hardware (equipment) and evaluate its effectiveness for library use. Contact with commercial interests should be established, demonstration equipment (video-cassettes, cartridge television, etc.) should be actively solicited, and constant awareness of new technology and developments aggressively pursued including attendance at seminars and technical institutes.

Evaluation of all experimental efforts should be publicized. Both successes and failures are essential information to others investigating the use of video and cable as library resources. In attempting to ascertain in which ways video can be a unique and effective library resource, it will be necessary also to note where problems exist and trouble occurs. Some areas of library use of video that should be explored:

... Cataloging - effective techniques and possibility of video catalog.

... Reference Use - Information for the poor reader, transmission of information to other libraries, etc.

... Storage and Retrieval - problems of physical location, handling and retrieval by patrons and librarians.

... Archival Records - Documenting significant library activities, meetings, reports.

... Promotion and Public Relations - exploring ways of better library promotion.

RESEARCH AND DEVELOPMENT

In all cases, the project staff must keep pace with developments in the hardware and software of videotape, and developments in the cable controversies. Combined with their experiences in experimental programming, the video project staff is expected to act as library consultants for other libraries interested in video library services. Special effort should be made to enable the video center to act as a clearinghouse of information on video for Northern California. The video staff should also make standardization recommendations for other California libraries in line with the California State Network Master Plan.